

REMARKS

Please reconsider this application in light of the following remarks and the amendments above. Claims 1-9 and 12-25 are pending. Claims 1 and 18 are in independent form.

Rejections Under 35 U.S.C. § 103(a)

In the Office action mailed January 6, 2010, claims 1 and 18 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over:

-U.S. Patent Application Publication No. 2003/0225596 to Richardson et al. (hereinafter "Richardson");

-U.S. Patent No. 6,788,997 to Frederick (hereinafter "Frederick"); and

-U.S. Patent No. 7,467,093 to Newton et al. (hereinafter "Newton").

As shown above, claim 1 has been amended to recite subject matter related to that recited in former claims 10 and 11. Former claims 10 and 11 were also rejected under 35 U.S.C. § 103(a) as allegedly obvious over Richardson, Frederick, and Newton.

As amended, claim 1 relates to a computerised identity matching management process for the supply of a pharmaceutical substance to an authorised patient. The process includes the steps of enrolling a patient into a program so that the patient is authorised to receive the substance, identifying a patient who is requesting the supply of the substance, retrieving a date stamp and using the identification code to retrieve a stored data record of the patient which includes at least a substance the patient is prescribed, a quantity in which the substance is to be supplied and a date at which the substance is to be supplied, determining whether the date stamp matches the date at which the substance is to be supplied, and in response to determining that the date stamp matches the date, supplying the substance in the prescribed quantity and recording information to form a record to update the supply of the substance to the patient.

The enrolling includes a management computer receiving a request, from biometric capture apparatus waiting to commence a biometric capture process representative of the patient to initiate the capture process, the management computer responding to the request to return a message to the biometric capture apparatus at a first time, the message containing a unique code, and where receipt of the message containing the code at the biometric capture apparatus causes initiation of the capture process, the management computer, after returning a message, receiving

a captured biometric representative of the patient from the biometric capture apparatus coded with the code, at a second time, the management computer operating, when the second time is less than a predetermined time later than the first time, to decode the captured biometric, generating an identification code representative of the patient, and storing a biometric record of the patient's captured biometric with the identification code.

Identifying a patient who is requesting the supply of the substance includes the steps of a management computer receiving a request, from biometric capture apparatus waiting to commence a biometric capture process representative of the patient to initiate the capture process, the management computer responding to the request to return a message to the biometric capture apparatus at a first time, the message containing a unique code, and where receipt of the message containing the code at the biometric capture apparatus causes initiation of the capture process, the management computer, after returning the message, receiving a captured biometric representative of the patient from the biometric capture apparatus coded with the code, at a second time, and the management computer operating, when the second time is less than a predetermined time later than the first time, to decode the captured biometric and initiate a matching process to find a match for the decoded captured biometric against stored biometric records and to retrieve an identification code representative of the patient when a match is found.

Claim 18 relates to a computerised identity matching management system for the authorised supply of a pharmaceutical substance to an authorised patient that includes a management computer programmed to perform activities related to the activities in claim 1.

As a threshold matter, the rejection of former claim 11 contends that former claim 11 merely "repeat[s] the subject matter of process claims 1, 3-4, and 8-9." *See Office action mailed January 6, 2010*, p. 7.

It is respectfully disagreed. Former claim 11 (and present claim 1) recite various activities that are part of the enrollment of a patient into a program so that the patient is authorised to receive the substance. None of process claims 1, 3-4, and 8-9 recite that the enrollment of a patient into a program involves the activities recited in former claim 11 (and present claim 1).

Since 35 U.S.C. § 132 and 37 C.F.R. § 1.104(2) both require that the reasons for any adverse action be stated in an Office action, the rejection of former claim 11 was facially deficient.

Further, the subject matter of present claims 1 and 18 are not obvious over Richardson, Frederick, and Newton. For example, Richardson, Frederick, and Newton neither describe nor suggest that a management computer receive a request, from biometric capture apparatus waiting to commence a biometric capture process representative of the patient to initiate the capture process, much less that the management computer respond to such request to return a message that contains a unique code whose receipt causes initiation of the capture process, as recited.

In this regard, Richardson describes a medical storage cabinet or “depot” that uses biometric matching in combination with an “electronic accessory” for controlling access to itself. *See, e.g., Richardson*, para. [0001], [0010]. According to Richardson, an “electronic accessory” can be “a key, ring, card, or badge.” *See, e.g., Richardson*, para. [0010]. When a user places such an electronic accessory within a specified distance of the medical device, a processor “knows” the specific individual electronic biometric identification it should expect. *See, e.g., Richardson*, para. [0060]. The system can prompt the user to scan their biometric information. *See, e.g., Richardson*, para. [0060]. The biometric information is then entered into the system with a biometric device and a comparison is made between the scanned biometric information and previously-stored specific individual electronic biometric identification. *See, e.g., Richardson*, para. [0060]. If there is a match, then the user is granted access to the medical device; otherwise, user access is denied. *See, e.g., Richardson*, para. [0060].

It is submitted that Richardson’s “electronic accessory” is neither a management computer nor a biometric capture apparatus, as recited. For example, Richardson’s “electronic accessory” does not receive a request from biometric capture apparatus or otherwise, as does the recited management computer. As another example, Richardson’s “electronic accessory” does not initiate a capture process in response to receipt of a message that contains a unique code, as does the recited biometric capture apparatus.

As for Richardson’s biometric device, it does not convey request to a management computer while waiting to commence a biometric capture process representative of the patient to initiate the capture process, nor does receipt of a return message that contains a unique code

causes initiation of the capture process at Richardson's biometric device. Instead, Richardson's device is understood to operate in combination with the electronic accessory.

Frederick and Newton do not remedy these deficiencies and would not cause those of ordinary skill to depart from Richardson's reliance on an "electronic accessory." For example, in describing that patients can receive medication at a self-service dispenser 718, Newton merely indicates that "the patient [enters] identification data at the self service dispenser." *See, e.g., Newton*, col. 76, line 51-55. Frederick and Newton neither describe nor suggest the recited request/response exchange between neither a management computer and a biometric capture apparatus.

Further, as shown above, claims 1 and 18 have been amended to clarify that enrollment of a patient into a program so that the patient is authorised to receive the substance can include a request/response process, in which a management computer receives a request from biometric capture apparatus waiting to commence a biometric capture process representative of the patient to initiate the capture process and the management computer responds to the request to return a message that contains a unique code to the biometric capture apparatus, where receipt of the message causes initiation of the capture process. These features are neither described nor suggested by Richardson, Frederick, and Newton, who provide limited details about the enrollment of a patient into such a program.

Accordingly, claims 1 and 18 are not obvious over Richardson, Frederick, and Newton. Applicant respectfully requests that the rejections of claims 1, 18, and the claims dependent therefrom be withdrawn.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant: Craig Gregory Smith, et al.
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Please apply the fees for a Request for Continued Examination, a three month extension of time, and any other charges or credits to Deposit Account 06-1050.

Respectfully submitted,

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